

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:
Plaintiff	:
vs.	: CRIMINAL NO. 1:CR-03-294
DARIN L. HEDGEPEETH,	:
Defendant	:
DARIN L. HEDGEPEETH,	:
Plaintiff	:
vs.	: CIVIL No. 1:CV-09-0987
UNITED STATES OF AMERICA,	:
Defendant	:

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Pending before us now are two motions filed by the Defendant Darin Hedgepeth, (1) a writ of scire facias (doc. 1, docket number 09-cv-987) and (2) a petition for a writ of habeas corpus (doc. 137, docket number CR03-294). His writ of scire facias is nearly identical to his motion for habeas relief. In both motions, he is seeking release from prison. In the interest of judicial economy we will dismiss his writ of scire facias under docket number 09-CV-987 and address Defendant's motion for a writ of habeas corpus under his criminal docket number, CR03-294.

Defendant's petition for a writ of habeas corpus is, in actuality, a motion pursuant to 28 U.S.C. § 2255. On October 5, 2006, Defendant filed an earlier petition pursuant to 28 U.S.C. § 2255. This petition was dismissed on June 14, 2007. In order to file a second or successive § 2255 motion, Defendant must seek and receive leave to do so from the Third Circuit Court of Appeals. See 28 U.S.C. §§ 2255(h) and 2244(b)(3)

AND NOW, this 30th day of June, 2009, it is ordered that:

1. Plaintiff's request to proceed in forma pauperis is granted.
2. Plaintiff's writ of scire facias under docket number 09-cv-987 is dismissed.
3. The Clerk of Court shall close docket number 09-cv-987.
4. Defendant's § 2255 motion under docket number CR03-294 is denied without prejudice to Defendant applying to the Court of Appeals for leave to file a successive petition.
5. Defendant's § 2255 motion is before us for screening and has not yet been served on the Government, Defendant's motion for default judgment (doc. 140) is premature and is dismissed.

/s/William W. Caldwell
William W. Caldwell
United States District Judge